

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

ALLEN DAVID DANIEL,

Petitioner,

v.

Case Number 08-12188  
Honorable Thomas L. Ludington

G. McQUIGGIN,

Respondent.

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**ORDER DENYING AS MOOT PETITIONER'S MOTION FOR A PRELIMINARY  
INJUNCTION AND TEMPORARY RESTRAINING ORDER**

This is a habeas corpus action under 28 U.S.C. § 2254. Petitioner was convicted in Macomb County, Michigan of home invasion, larceny in a building, malicious destruction of property, stalking, and malicious use of a service provided by a telecommunications provider. On May 30, 2008, the Court dismissed Petitioner's habeas petition without prejudice because Petitioner conceded that he had not exhausted state remedies for his claims.

Currently pending before the Court is Petitioner's motion for a preliminary injunction and a temporary restraining order. Dkt. # 9. The motion seeks habeas relief, as well as, an order prohibiting officials from interfering with Petitioner's access to the courts. Petitioner also seeks an order compelling officials to return his legal mail and to provide him with all the records in his criminal cases in four different counties. Some of these requests for injunctive relief would be more appropriate in a civil rights complaint than in this habeas corpus action. *See Hodges v. Bell*, 170 F.Appx. 389, 392 (6th Cir. 2006) (unpublished) (quoting *Nelson v. Campbell*, 541 U.S. 637, 643 (2004) ("constitutional claims that merely challenge the conditions of a prisoner's confinement, whether the inmate seeks monetary or injunctive relief, fall outside of that core [of habeas corpus]

and may be brought pursuant to § 1983 in the first instance”).

Furthermore, this case is closed, and Petitioner recently filed a new habeas corpus petition, which attacks the same Macomb County convictions as the ones challenged in this case. *See Daniel v. McQuiggin*, No. 08-13177 (E.D. Mich. July 23, 2008).

Accordingly, it is **ORDERED** that Petitioner’s motion for a preliminary injunction and temporary restraining order [Dkt. # 9] is **DENIED** as moot.

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

Dated: October 22, 2008

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 22, 2008.

s/Tracy A. Jacobs  
TRACY A. JACOBS